

### REMARKS

This is intended as a full and complete response to the Office Action dated April 3, 2009. In view of the following amendment and discussion, the Applicant believes all claims are all in allowable form.

### CLAIM REJECTIONS

#### **35 U.S.C. § 102**

#### **Claims 1-4, 7-10 and 12**

Claims 1-4, 7-10 and 12 stand rejected as being unpatentable over *Intel* (Intelligent Platform Management Interface (IPMI) Condensed User's Guide). In response, the Applicants have amended claim 7 to more clearly recite certain aspects of the invention.

Independent claims 1 and 7 recite elements not taught or suggested by *Intel*. *Intel* teaches utilizing a transport module that requires a TCL interpreter to load a program. See page 29, section 3.2.1, lines 2-3. Once the TCL interpreter is loaded, the ICTS framework automatically determines the supported commands and interfaces of a load transport module. Accordingly, the transport module of *Intel* still requires and utilizes an intermediate media, a TCL interpreter, to decode the program and transport it into another support command, as other conventional practices. As discussed in the background section of the present application, similar to the prior art does and *Intel* also requires a TCL interpreter to convert the test program into a command. However, unlike the claimed invention, the transport module of *Intel* does not teach or suggest a IPMI command engine module that is capable of directly encoding a loaded test program into IPMI commands and executing the IPMI command, as recited by claims 1 and 7.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)(citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983). Here, as *Intel* does not teach or suggest an IPMI command engine module ***directly encoding*** a loaded test program into a IPMI command and executing the IPMI command, as recited in claims 1 and 7, *Intel* fails to

disclose each and every element of the claimed invention recited by independent claims 1 and 7, and thus, a *prima facie* case of anticipation is not established.

Thus, the Applicants submit that independent claims 1 and 7, and all claim depending therefrom, are patentable over *Intel*. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

**35 U.S.C. § 103****Claim 5**

Claim 5 stands rejected as being unpatentable over *Intel* in view of *Official Notice*. The Applicants respectfully disagree.

Independent claim 1 recites elements not taught or suggested by *Intel* in view of *Official Notice*. The patentability of claim 1 over *Intel* has been discussed above. *Official Notice* is cited for the teaching that both the concept of advances of programming a command engine module in the Delphi programming language are well known and expected in the art. However, *Official Notice* does not teach or suggest an IPMI command engine module directly encoding a loaded test program into IPMI commands and executing the IPMI command, as recited in claims 1 and 7. Accordingly, *Official Notice* does not teach or suggest one of ordinary skill in the art to provide a modification to *Intel* in a manner that would yield an IPMI command engine module directly encoding a loaded test program into IPMI commands and executing the IPMI command, as recited in claims 1 and 7. As such, a *prima facie* case of obviousness has not been established as all the cited references fail to teach each claimed elements in claims 1 and 5.

Thus, the Applicants submit that independent claim 1, and claim 5 depending therefrom, are patentable over *Intel* in view of *Official Notice*. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

**35 U.S.C. § 103****Claims 6 and 11**

Claims 6 and 11 stand rejected as being unpatentable over *Intel* in view of *Laurie* (IPMItool Command-line Management of Intelligent Devices). In response, the Applicants have amended claim 7 to more clearly recite certain aspects of the invention.

Independent claims 1 and 7 recites elements not taught or suggested by *Intel* in view of *Laurie*. The patentability of claims 1 and 7 over *Intel* has been discussed above. *Laurie* is cited for the teaching of using a channel protocol conversion element includes the use of a RMCP element. However, *Laurie* does not teach or suggest an IPMI command engine module directly encoding a loaded test program into IPMI commands and executing the IPMI command, as recited in claims 1 and 7. *Laurie* does not cure the deficiency of *Intel*. Accordingly, *Laurie* does not teach or suggest one of ordinary skill in the art to provide a modification to *Intel* in a manner that would yield an IPMI command engine module directly encoding a loaded test program into IPMI commands and executing the IPMI command, as recited in claims 1 and 7. As such, a *prima facie* case of obviousness has not been established as the cited references fail to teach each claimed elements.

Thus, the Applicants submit that claims 6 and 11 are patentable over *Intel* in view of *Official Notice*. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

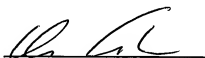
### **CONCLUSION**

Thus, for at least the reasons discussed above, the Applicant submits that all claims now pending are in condition for allowance. Accordingly, both reconsideration of this application and swift passage to issue are earnestly solicited.

If the Examiner believes that any unresolved issues still exist, it is requested that the Examiner telephone Keith Taboada at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

June 5, 2009  
Date

  
Keith P. TABOADA  
Attorney Reg. No. 45,150  
(732) 530-9404

Patterson & Sheridan, LLP  
595 Shrewsbury Avenue  
Suite 100  
Shrewsbury, NJ 07702